

<p>TAKEDA PHARMACEUTICAL COMPANY LIMITED, TAKEDA PHARMACEUTICALS NORTH AMERICA, INC., TAKEDA PHARMACEUTICALS LLC, TAKEDA PHARMACEUTICALS AMERICA, INC., and ETHYPHARM, S.A.,</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>ZYDUS PHARMACEUTICALS (USA) INC. and CADILA HEALTHCARE LIMITED,</p> <p>Defendants and Counterclaim-Plaintiffs.</p>	<p>Civil Action No. 3:10-CV-01723-JAP-TJB</p> <p>PROPOSED ORDER</p> <p>RECEIVED</p> <p>SEP 27 2012</p> <p>AT 8:30 _____ M WILLIAM T. WALSH, CLERK</p>
---	--

1. This is a complex patent case requiring discovery of highly sensitive competitive materials, including business, trade-secret or proprietary information. The parties to this case

and third parties have produced confidential information in discovery, the public disclosure of which could affect legitimate business interests.

2. To protect the confidentiality of this information, the parties agreed to a Stipulated Protective Order, entered in this litigation on August 26, 2010 (D.I. 46, the “Order”). The Order allows the parties or third parties to designate information as “Confidential” or “Highly Confidential — Outside Counsel’s Eyes Only”, and provides that a party wishing to use materials so designated in a submission filed with the Court must move pursuant to Local Rule 5.3 for leave to file the submission under seal. (Order ¶¶ 2 and 17).

3. By designating the Subject Material “Highly Confidential — Outside Counsel’s Eyes Only,” defendants Zydus Pharmaceuticals (USA) Inc. and Cadila Healthcare Limited (collectively, “Defendants”) have represented that the Subject Material includes their sensitive business, financial or other proprietary information, the disclosure of which would destroy the value of Defendants’ information and the competitive advantage which attaches thereto. Defendants have a legitimate interest in the continued confidentiality of this information.

4. Absent an order sealing the Subject Material, Plaintiffs cannot include the confidential information in support of their September 10, 2012 letter to the Honorable Tonianne J. Bongiovanni, seeking an order to strike certain paragraphs of the rebuttal expert report of Dr. Harry Brittain, without wholly disregarding Defendants’ designation. The omission of this confidential information from Plaintiffs’ letter would significantly limit Plaintiffs’ ability to adequately advocate for their position.

5. Upon consideration of the papers submitted in support of the motion, and the material sought to be sealed, the Court concludes that Defendants have met their burden under Local Civil Rule 5.3(c) and applicable case law, and that this material should be sealed.

6. Specifically, the Court concludes that:

(a) the Subject Material contains information concerning Defendants' business or financial information that Defendants have designated "Highly Confidential — Outside Counsel's Eyes Only";

(b) the parties have a legitimate interest in maintaining the confidentiality of the Subject Material;

(c) the omission of the Subject Material from Plaintiffs' letter dated September 10, 2012 to the Honorable Tonianne J. Bongiovanni, seeking an order to strike certain paragraphs of the rebuttal expert report of Dr. Harry Brittain, and Exhibits A and B to that letter, would significantly limit Plaintiffs' ability to advocate for their position; and

(d) there is no less restrictive alternative to the relief sought.

THEREFORE, it is on this 27th day of September, 2012

ORDERED that this Motion to Seal, pursuant to Local Rule 5.3 is hereby granted; and

IT IS FURTHER ORDERED that the Clerk is hereby directed to seal the Subject

Material.



Hon. Tonianne J. Bongiovanni, U.S.M.J.

It is further ORDERED that the Clerk of the Court terminate this Motion [Docket Entry No. 226] accordingly.

The Court is aware that any interested person has until October 15, 2012 to move to intervene with respect to this motion to seal. This order in no way prejudices that right. Should an interested person timely move to intervene, the Court shall reexamine its findings at that time.